

Sec. 17. CONTINGENT IMPLEMENTATION. This Act shall be implemented on January 1, 2011, if the joint resolution proposing an amendment to the Constitution of the State of Iowa to dedicate a portion of state revenue for the benefit of the state's natural resources, as passed for the second time by the general assembly as provided in 2009 Iowa Acts, chapter 185, and submitted to the people of the State of Iowa at the general election in November 2010, in the manner required by the Constitution of the State of Iowa and the laws of this state, is ratified.

Approved April 23, 2010

CHAPTER 1159

COURT ORDERS, PROCEEDINGS, AND ADMINISTRATION

S.F. 2345

AN ACT relating to judicial branch administration, child custody and visitation matters.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 236.4, subsection 2, Code 2009, is amended to read as follows:

2. The court may enter any temporary order it deems necessary to protect the plaintiff from domestic abuse prior to the hearing, including temporary custody or visitation orders pursuant to subsection 2A, upon good cause shown in an ex parte proceeding. Present danger of domestic abuse to the plaintiff constitutes good cause for purposes of this subsection.

Sec. 2. Section 236.4, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. The court may award temporary custody of or establish temporary visitation rights with regard to children under eighteen years of age. In awarding temporary custody or temporary visitation rights, the court shall give primary consideration to the safety of the alleged victim and the children. If the court finds that the safety of the alleged victim or the children will be jeopardized by unsupervised or unrestricted visitation, the court shall set conditions or restrict visitation as to time, place, duration, or supervision, or deny visitation entirely, as needed to guard the safety of the victim and the children. The court shall also determine whether any other existing orders awarding custody or visitation should be modified.

Sec. 3. Section 236.4, subsection 3, Code 2009, is amended to read as follows:

3. If a hearing is continued, the court may make or extend any temporary order under subsection 2 or 2A that it deems necessary.

Sec. 4. Section 236.4, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. Prior to the entry of a temporary order under this section that involves a child-custody determination as defined in section 598B.102, the plaintiff shall furnish information to the court in compliance with section 598B.209.

Sec. 5. Section 236.5, subsection 1, paragraph b, subparagraph (4), subparagraph division (c), Code Supplement 2009, is amended to read as follows:

(c) The court shall also investigate determine whether any other existing orders awarding custody or visitation rights should be modified.

Sec. 6. Section 236.5, subsection 1, paragraph b, subparagraph (4), Code Supplement 2009, is amended by adding the following new subparagraph division:

NEW SUBPARAGRAPH DIVISION. (d) Prior to entry of an order or agreement under this section that involves a child-custody determination as defined in section 598B.102, the parties shall furnish information to the court in compliance with section 598B.209.

Sec. 7. Section 598.15, subsection 1, Code 2009, is amended to read as follows:

1. ~~The court shall order the parties to any action which involves the issues of child custody or visitation to shall~~ participate in a court-approved course to educate and sensitize the parties to the needs of any child or party during and subsequent to the proceeding within forty-five days of the service of notice and petition for the action or within forty-five days of the service of notice and application for modification of an order. Participation in the course may be waived or delayed by the court for good cause including, but not limited to, a default by any of the parties or a showing that the parties have previously participated in a court-approved course or its equivalent. Participation in the course is not required if the proceeding involves termination of parental rights of any of the parties. A final decree shall not be granted or a final order shall not be entered until the parties have complied with this section, unless participation in the course is waived or delayed for good cause or is otherwise not required under this subsection.

Sec. 8. Section 602.3101, subsection 2, Code 2009, is amended to read as follows:

2. ~~The state court administrator or a designee of the state court administrator~~ supreme court shall act as appoint the administrator to of the board.

Sec. 9. Section 602.8105, subsection 1, Code Supplement 2009, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. For filing a tribal judgment, one hundred dollars.

Sec. 10. Section 602.10108, Code 2009, is amended to read as follows:

602.10108 Fees.

1. ~~The board supreme court shall set the fees for examination and for admission. The fees for examination shall be based upon the annual cost of administering the examinations. The fees for admission shall be based upon the costs of conducting an investigation of the applicant and the administrative costs of sustaining the board, which shall include but shall not be limited to:~~

- ~~1. Expenses and travel for board members and temporary examiners.~~
- ~~2. Office facilities, supplies, and equipment.~~
- ~~3. Clerical assistance.~~

2. Fees shall be collected by the board and transmitted to the treasurer of state who shall deposit the fees in the general fund of the state.

Sec. 11. Section 607A.8, subsection 2, Code 2009, is amended to read as follows:

2. A grand juror and a petit juror in all courts shall receive reimbursement for mileage expenses at the rate specified ~~in section 602.1509~~ by the supreme court for each mile traveled each day to and from the residence of the juror to the place of service or attendance, and shall receive reimbursement for actual expenses of parking, as determined by the clerk of the district court. A juror who is a person with a disability may receive reimbursement for the costs of alternate transportation from the residence of the juror to the place of service or attendance. A juror shall not receive reimbursement for mileage expenses or actual expenses of parking when the juror travels in a vehicle for which another juror is receiving reimbursement for mileage and parking expenses.

Sec. 12. Section 626D.3, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The clerk of the district court shall collect a fee as provided in section 602.8105, subsection 1, for filing a tribal judgment.

Sec. 13. Section 633.20, subsection 3, Code 2009, is amended to read as follows:

3. A person appointed as an associate probate judge shall have jurisdiction to audit accounts of fiduciaries and to perform ministerial duties as a referee provided in this section and shall have additional jurisdiction to perform the judicial functions as the court prescribes provided in section 633.20D.

Sec. 14. **NEW SECTION. 633.20D Associate probate judge — jurisdiction — appeals.**

1. An associate probate judge shall have the same jurisdiction to conduct probate court proceedings, to issue no-contact or protective orders, injunctions, contempt orders for adults in probate court proceedings, and to issue orders, findings, and decisions as the judge of the probate court. However, the chief judge may limit the exercise of probate court jurisdiction by the associate probate judge.

2. The parties to a proceeding heard by an associate probate judge are entitled to appeal the order, finding, or decision of an associate probate judge, in the manner of an appeal from orders, findings, or decisions of district court judges. An appeal does not automatically stay the order, finding, or decision of an associate probate judge.

Sec. 15. Section 665.7, Code 2009, is amended to read as follows:

665.7 Notice to show cause.

Before punishing for contempt, unless the offender is already in the presence of the court, the offender must be served personally with ~~a rule~~ an order to show cause against the punishment, and a reasonable time given the offender therefor; or the offender may be brought before the court forthwith, or on a given day, by warrant, if necessary. In either case the offender may, at the offender's option, make a written explanation of the offender's conduct under oath, which must be filed and preserved.

Sec. 16. Section 901.4, Code 2009, is amended to read as follows:

901.4 Presentence investigation report confidential — access.

The presentence investigation report is confidential and the court shall provide safeguards to ensure its confidentiality, including but not limited to sealing the report, which may be opened only by further court order. The defendant's attorney and the attorney for the state shall have access to the presentence investigation report at least three days prior to the date set for sentencing. The defendant's appellate attorney and the appellate attorney for the state shall have access to the presentence investigation report upon request and without the necessity of a court order. The report shall remain confidential except upon court order. However, the court may conceal the identity of the person who provided confidential information. The report of a medical examination or psychological or psychiatric evaluation shall be made available to the attorney for the state and to the defendant upon request. The reports are part of the record but shall be sealed and opened only on order of the court. If the defendant is committed to the custody of the Iowa department of corrections and is not a class "A" felon, the department and the board of parole shall have access to the presentence investigation report. Pursuant to section 904.602, the presentence investigation report may also be released by ordinary or electronic mail by the department of corrections or a judicial district department of correctional services to another jurisdiction for the purpose of providing interstate probation and parole compact or interstate compact for adult offender supervision services or evaluations, or to a substance abuse or mental health services provider when referring a defendant for services. The defendant or the defendant's attorney may file with the presentence investigation report, a denial or refutation of the allegations, or both, contained in the report. The denial or refutation shall be included in the report.

Approved April 23, 2010

CHAPTER 1160**SAND AND GRAVEL REMOVAL FROM STATE-OWNED LANDS***S.F. 2371*

AN ACT relating to royalty fees for removal of sand and gravel from state-owned lands and waters located on the Cedar river in certain counties and including effective date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 461A.53, Code 2009, is amended to read as follows:

461A.53 Permits.

1. The commission may enter into agreements for the removal of ice, sand, gravel, stone, wood, or other natural material from lands or waters under the jurisdiction of the commission if, after investigation, it is determined that such removal will not be detrimental to the state's interest.

2. The commission may specify the terms and consideration under which such removal is permitted and issue written permits for such removal.

3. Notwithstanding subsection 2, the commission shall issue written permits with a royalty fee of ten cents per ton for the removal of sand and gravel for the purposes of flood control from state-owned lands and waters under the jurisdiction of the commission located on the Cedar river in a county with a population of more than one hundred twenty-seven thousand. This subsection is repealed on June 30, 2015.

Sec. 2. **EFFECTIVE UPON ENACTMENT.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 23, 2010

CHAPTER 1161**REPLACEMENT TAXES ON COGENERATION FACILITIES***S.F. 2373*

AN ACT relating to the administration of the replacement tax for new cogeneration facilities, and including effective date and retroactive applicability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 437A.3, subsection 1, Code Supplement 2009, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For new cogeneration facilities, the assessed value shall be determined as provided in section 437A.16A.

Sec. 2. Section 437A.3, subsection 4, Code Supplement 2009, is amended to read as follows:

4. *a. "Cogeneration facility" means a facility with a capacity of two hundred megawatts or less that uses the same energy source for the sequential generation of electrical or mechanical power in combination with steam, heat, or other forms of useful energy and, except for ownership, meets the criteria to be a qualifying cogeneration facility as defined in the federal Public Utility Regulatory Policies Act of 1978, 16 U.S.C. § 2601 et seq., and related federal regulations.*

b. "New cogeneration facility" means any of the following: